HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Petition No.16126 of 2006

Between:

Gokul Nagar Youth Welfare Association
(Regd.No.1567/2005), Kancharapalem,
Visakhapatnam. … Petitioner.

And

The Secretary to Government of India,
Ministry of Railways, Rai Bhavan,
New Delhi and others. … Respondents.

:ORDER:

Counsel for the petitioner : Sri Raja Gopala Rao Hanumanthu

Counsel for Respondents 1 to 5 : Sri R.S. Murty.

Counsel for Respondent No.6 : None.

3rd August, 2006

Per G.S. Singhvi, CJ.

Gokul Nagar Youth Welfare Association, Kancharapalem, Visakhapatnam has filed this petition in the name of public interest for directing the official respondents to look into the grievances of the public with regard to harassment and alleged unlawful behaviour of respondent No.6 – R.R. Enterprises, in collecting parking free and entry fee from the passengers and others at Visakhapatnam railway station. The other prayer made in the writ petition is to direct the official respondents to stop collection of entry fee from the public and allow the vehicles of the passengers up to the main entrance of the platform.

In the affidavit filed by Sri Y. Kanakeswara Rao, President of the petitioner association, it has been averred that in the garb of contract awarded to it by the Railway Administration, respondent No.6 has been unauthorisedly collecting parking fee and even entry free from the members of the public. The deponent has averred that respondent No.6 is collecting parking fee even from those who do not park vehicles within the earmarked parking zone. Not only this, it has been collecting entry fee without any authority, and notwithstanding the representations made to various authorities against the harassment and illegal activity of respondent No.6, no action has been taken against the said respondent. Along with his affidavit, Sri Y. Kanakeswara Rao has annexed the Photostat copies of entry tokens, car parking slips and cuttings of different newspapers. He has also annexed copies of telegrams dated 14.7.2006 sent to Divisional Railway Manager, East Coast Railway, Visakhapatnam, by four

persons namely, Allu Krishna, K. Gopala Rao, A.L. Appa Rao and K. Sanyasi Rao.

We have heard learned counsel for the petitioner. In our opinion, the petitioner has failed to make out a case for issue of directions in terms of the prayer made. The question whether respondent No.6 is illegally collecting parking fee and/or entry fee from the persons coming to the railway station at Visakhapatnam can be adjudicated only after going through the terms and conditions of the contract awarded to the said respondent by the Railway Administration for collection of parking free. However, as copy of the contract has not been placed on record, it is not possible for the Court to examine the petitioner's grievance in a correct perspective.

Learned counsel for the petitioner submits that his client cannot have direct access to the agreement entered into between the Railway Administration and respondent No.6 and, therefore, the Court may call upon the official respondents to produce the agreement. In our opinion, the course suggested by the learned counsel does not deserve to be adopted. The primary duty to place some tangible material, which may justify entertaining of the cause termed as public interest litigation, is on the petitioner. The representative of the petitioner could have filed an application under the Right to Information Act, 2005 with the request to allow him inspection of the contract awarded by the Railway Administration to respondent No.6 and take excerpts therefrom. He could also apply for issue of a certified copy of the agreement. This having not been done, we do not find any justification to entertain the petition.

In the result, the writ petition is dismissed. However, liberty is given to the petitioner file appropriate application under the Right to Information Act, 2005, and then file fresh petition in relation to the same cause.

G.S. SINGHVI, CJ

3rd August, 2006. G.V. SEETHAPATHY, J

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